

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

STATE OF TEXAS, *et al.*,)
)
)
 Plaintiffs,)
)
)
v.) Case No. 1:18-cv-00068
)
)
UNITED STATES OF AMERICA, *et al.*,)
)
)
 Defendants,)
)
)
and)
)
KARLA PEREZ, *et al.*,)
)
)
 Defendant-Intervenors.)

**PLAINTIFF STATES' RESPONSE TO DEFENDANT-INTERVENORS'
MOTION TO FILE SUPPLEMENTAL BRIEFING**

The Defendant-Intervenors request the opportunity to submit additional briefing regarding the Plaintiff States' pending motion for summary judgment. *See* ECF No. 432. The Plaintiff States continue to assert that the issues controlling this case are ripe for resolution on the record currently in front of the Court. The Plaintiff States also believe that no additional discovery is needed now that the discovery period is closed. However, the Plaintiff States do not oppose the request to submit supplemental briefing based on the discovery that has already occurred so long as all parties can do so and the Court sets an expeditious schedule for such briefing.

With the additional information produced during discovery, the evidence that DACA is unlawful is stronger than ever. The Defendant-Intervenors sought discovery regarding whether advance parole removed a barrier for certain DACA recipients to

adjust their immigration status. The Court ordered the Federal Defendants to conduct a manual casefile review of a random sample of 500 DACA recipients who were granted advance parole and then subsequently adjusted their status to Lawful Permanent Resident. *See ECF No. 421.* The Federal Defendants were to identify how many of the 500 individuals could not have adjusted their status without first being allowed to leave and then reenter the country through a grant of advance parole made available to them through DACA.

On October 14, 2019, the Federal Defendants responded that 484 of the 500 individuals reviewed could not have adjusted their immigration status to Lawful Permanent Resident without first using DACA-based advance parole. Ex. A. Based on the Federal Defendants' extrapolation from that sample, approximately 14,000 individuals who otherwise could not have adjusted to that status have now been able to do so because of DACA-based advance parole. *Id.* Those 14,000 individuals now have a pathway to full U.S. citizenship that they did not have before DACA—despite the insistence in the 2012 DACA memorandum that DACA “confers no substantive right, immigration status or pathway to citizenship.” *See ECF No. 358-1.*

The Plaintiff States do not oppose the request to supplement the summary judgment briefing so long as all the parties can do so. The Plaintiff States will supplement the record with the information above and other discovery confirming that DACA is substantively unlawful, violative of the procedural requirements of the Administrative Procedure Act, and contrary to the Federal Defendants' obligation to take care that the laws of this country are faithfully executed.

Respectfully Submitted.

STEVE MARSHALL
Attorney General of Alabama

LESLIE RUTLEDGE
Attorney General of Arkansas

DEREK SCHMIDT
Attorney General of Kansas

JEFF LANDRY
Attorney General of Louisiana

DOUGLAS J. PETERSON
Attorney General of Nebraska

ALAN WILSON
Attorney General of South Carolina

PATRICK MORRISEY
Attorney General of West Virginia

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

RYAN L. BANGERT
Deputy Attorney General for Legal Counsel

/s/ Todd Lawrence Disher
TODD LAWRENCE DISHER
Attorney-in-Charge
Trial Counsel for Civil Litigation
Tx. State Bar No. 24081854
Southern District of Texas No. 2985472
Tel.: (512) 463-2100; Fax: (512) 936-0545
todd.disher@oag.texas.gov
P.O. Box 12548
Austin, Texas 78711-2548

COUNSEL FOR PLAINTIFF STATES

CERTIFICATE OF SERVICE

I certify that on October 22, 2019, I served a copy of this document through the Court's CM/ECF system to all counsel listed below:

Nina Perales
Mexican American Legal Defense and Educational Fund
110 Broadway
Suite 300
San Antonio, Texas 78205
nperales@maldef.org

Jeffrey S. Robins
U.S. Department of Justice, Civil Division
Office of Immigration Litigation
District Court Section
P.O. Box 868
Washington, D.C. 20044
Jeffrey.Robins@usdoj.gov

Glenn J. Moramarco
Office of the Attorney General of New Jersey
25 Market Street, 1st Floor
Trenton, New Jersey 08625
Glenn.Moramarco@law.njoag.gov

/s/ Todd Lawrence Disher
Todd Lawrence Disher
Trial Counsel for Civil Litigation

COUNSEL FOR PLAINTIFF STATES

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

STATE OF TEXAS, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 1:18-CV-68
)	
UNITED STATES OF AMERICA, <i>et at.</i> ,)	
)	
Defendants,)	
)	
and)	
)	
KARLA PEREZ, <i>et al.</i> ,)	
)	
Defendant-Intervenors,)	
)	
and)	
)	
STATE OF NEW JERSEY,)	
)	
Defendant-Intervenor.)	

**FEDERAL DEFENDANTS' RESPONSES TO
DEFENDANT-INTERVENORS' REVISED DISCOVERY REQUEST**

TO: Defendant-Intervenors, by and through their attorneys of record, Nina Perales, Celina Moreno, Jack Salmon, Alejandra Avila, Mexican American Legal Defense and Educational Fund, 110 Broadway, Suite 300, San Antonio, Texas 78205; Carlos Moctezuma García, García & García, Attorneys at Law P.L.L.C., P.O. Box 4545 McAllen, Texas 78502.

Federal Defendants serve this response to Defendant-Intervenors' revised interrogatory pursuant to the Federal Rules of Civil Procedure. Federal Defendants respond to this interrogatory pursuant to the Court's June 26, 2019 Order, ECF Dkt. 412, requiring that Federal Defendants respond to Defendants-Intervenors' Interrogatory No. 13 – notwithstanding Federal Defendants' objections, and the Court's August 2, 2019 Order, ECF Dkt. 421, granting the parties' joint motion to modify the interrogatory to which Federal Defendants were ordered to respond, by reviewing a random sampling of 500 responsive records.

RESPONSE TO DEFENDANT-INTERVENORS' REVISED INTERROGATORY

REVISED INTERROGATORY

Please identify the total number of requestors approved for DACA between June 2012 and June 2018:

- With an approved Form I-485 (Application to Register Permanent Residence or Adjust Status), based on 8 U.S.C. § 1255(a), and
- Who received a Class of Admission code (COA) following approval of the Form I-485 indicating they adjusted to Lawful Permanent Resident (LPR) status as an immediate relative (*i.e.*, qualified spouse, child or parent of a United States citizen), and
- With an approved Form I-131 application for an advance parole document based on the standards associated with the DACA policy where the Form I-131 was approved before the Form I-485 filing date; and
- Who was paroled into the United States by U.S. Customs and Border Protection on the basis of the DACA-based advance parole document (Form I-512L) that was issued to the DACA recipient and where such parole occurred before the Form I-485 was filed; and
- Where the DACA recipient/adjustment applicant could not have met the requirement in 8 U.S.C. § 1255(a) to have been “inspected and admitted, or paroled” but for his or her entry to the United States on the DACA-based advance parole document.

RESPONSE

Federal Defendants respond that 484 individuals, out of the random sampling of 500, met all the criteria in the Interrogatory. Based on a total population of 14,600 requestors that met the first three criteria of the interrogatory before sampling, USCIS estimates with a +/- 1.5% margin of error, that between 13,908 and 14,358 requestors approved for DACA between June 2012 and June 2018 meet all the criteria as specified in this revised interrogatory above.

VERIFICATION OF RESPONSE TO REVISED INTERROGATORY

I, Alexander King, Senior Advisor, U.S. Citizenship and Immigration Services' (USCIS) Service Center Operations (SCOPS), certify that, based on my knowledge, information made available to me in the course of my official duties, and belief, the foregoing response is true and correct regarding the manual review of the records related to the five hundred (500) individuals selected for the random sample provided to SCOPS and the conclusion that four hundred eighty-four (484) individuals in the sample met all of the terms of the revised interrogatory approved by the Court on August 2, 2019.

DATED: October 10, 2019.

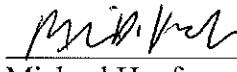


Alex King
Alexander King
Senior Advisor, SCOPS, USCIS

VERIFICATION OF RESPONSE TO REVISED INTERROGATORY

I, Mike Hoefer, Chief of U.S. Citizenship and Immigration Services' (USCIS) Office of Performance and Quality (OPQ), certify that, based on my knowledge, information made available to me in the course of my official duties, and belief, the foregoing is true and correct regarding: 1) the total population of requestors that met the first three criteria of the interrogatory before sampling and 2) within the stated margin of error, the estimated number of requestors approved for DACA between June 2012 and June 2018 that met the all criteria as specified in the interrogatory.

DATED: October 10, 2019.



Michael Hoefer
Chief, OPQ, USCIS

Dated: October 14, 2019

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General
Civil Division
WILLIAM C. PEACHEY
Director, Office of Immigration Litigation
District Court Section

/s/ Jeffrey S. Robins
JEFFREY S. ROBINS
Attorney-in-Charge
Deputy Director
U.S. Department of Justice, Civil Division
Office of Immigration Litigation
District Court Section
P.O. Box 868, Washington, DC 20044
Telephone: (202) 616-1246
Facsimile: (202) 305-7000
jeffrey.robins@usdoj.gov

Attorneys for Federal Defendants